

REMARKS

Claims 25-48 are pending in this Application. Claims 49-67 have been previously canceled without prejudice. In the Office Action mailed September 28, 2006, the Examiner rejected Claims 25-48 under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over Naji, et al., (U.S. Patent No. 6,030,477) in view of admitted prior art (APA; e.g., Specification para. [0031] and Table 1).

With this reply, Applicants respectfully request entry of amended Claims 25 and 33, amended to include "a portion of the fibers are pretreated with an elevated temperature washing process to reduce COD content to less than 4.5 kg/ton," [emphasis added showing amended text]. As pointed out by the Examiner in paragraph 2 of the Office Action mailed September 28, 2006, "The APA teaches that all conventional pulping and washing at temperatures (55-60 °C) results in cellulose fibers, e.g., the cellulose fibers of NAJI, having a COD content of 5 kg/ton." Accordingly, as pointed out by the Examiner, neither Naji, et al., nor the APA teach Applicants' claimed invention that includes a composite building material or material formulation having a COD content less than 4.5 kg/ton. Support for the amended claims may be found in the specification, at e.g., paragraphs [0011] and [0034]. The amended claims include a patentable portion of Applicants' invention that is expressly, implicitly, or inherently supported in the originally filed disclosure.

Applicant further submit that neither Naji nor the APA teach or suggest, implicitly or explicitly, fibers pretreated with an

elevated temperature washing process to reduce a COD content to less than 4.5 kg/ton or wherein the elevated temperature is between about 65 degrees Centigrade to about 120 degrees Centigrade. Therefore, neither Naji, et al., nor the APA can anticipate Applicants' claimed invention. Moreover, neither Naji, et al., nor the APA are obvious over amended Claims 25 and 33, because they do no teach Applicants' claimed invention as a whole and they do not teach each and every element of Applicants' claimed invention. There is also no suggestion or motivation in Naji, et al., or the APA or to one skilled in the art to modify either Naji, et al., or the APA, because, as pointed out by the Examiner, both Naji, et al., and the APA teach and suggest "conventional pulping and washing at temperatures (55-60 °C)" that "results in cellulose fibers, e.g., the cellulose fibers of NAJI, having a COD content of 5 kg/ton," which is divergent from Applicants "washing process to reduce COD content to less than 4.5 kg/ton" and "wherein the elevated temperature is between about 65 degrees Centigrade to about 120 degrees Centigrade." Accordingly, both Naji, et al., and the APA teach away from Applicants' claimed invention. For this reason, there is no reasonable expectation of success, as is required for a showing of obviousness. Therefore, Applicants submit that amended Claims 25 and 33 are patentably distinct from the cited references and respectfully request entry and allowance of these amended claims and all claims depending therefrom as provided in the Listing of Claims beginning on page 5 of this paper.

Applicants also respectfully request entry of amended paragraph [0021] as provided on page 3 of this paper. The

Attorney No. HARD1.015A (129843-1022)
Customer No. 60148

AMENDMENT AND RESPONSE
APPLICATION NO. 09/970,389

11

paragraph is amended to provide correct information regarding various related matters, now issued as patents. No new matter has been included with this reply and no new issues requiring further consideration and/or search have been introduced with the amendments set forth herein.

CONCLUSION

Applicants respectfully submit that the Application is in condition for allowance and earnestly seek such allowance of Claims 25-48 as provided in the Listing of Claims beginning on page 5 of this paper. Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214.999.4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1022. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

Attorney No. HARD1.015A (129843-1022)
Customer No. 60148

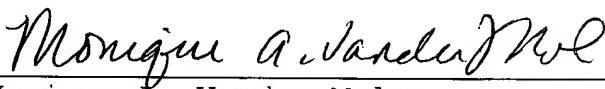
AMENDMENT AND RESPONSE
APPLICATION NO. 09/970,389

13

This is intended to be a complete response to the Office Action made final and mailed September 28, 2006.

Please direct all correspondence to the practitioner listed below at Customer No. 60148.

Respectfully submitted,


Monique A. Vander Molen
Monique A. Vander Molen
Registration No. 53,716

Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
Telephone: 214.999.4330
Facsimile: 214.999.3623
Email: ip@gardere.com

Dated: December 28, 2006